



## Historical Institutional Abuse: What Survivors Want From Redress

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Historical Institutional Abuse:

# **What Survivors Want From Redress**

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Commissioned by the Panel of Experts on Redress

March 2016





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# Foreword

This report provides a first-hand account and insight into what survivors want from redress. A survivor perspective is frequently missing from the literature and policy debate on redress.

This is the first of two reports commissioned by the Panel of Experts on Redress. The Panel is made up of individual survivors, survivor groups, human rights organisations, academics, practitioners, members of the legal profession, and national and international experts.<sup>1</sup> It is a survivor-driven process.

This report reflects the views of survivors and concludes that redress is about much more than financial compensation. The general consensus from workshops was that any approach to redress must offer a holistic and comprehensive response, recognising and addressing all the harms committed in and resulting from residential institutional abuses. Compensation is only one part of a 'package of measures' that will be discussed in this report.

This report makes a number of recommendations that offer a tailor-made out-of-court redress plan for survivors and participating stakeholders. The recommendations are legally supportable in civil, constitutional and international law, and are consistent with sound public policy and international best practice. The Panel considered approaches to redress in other jurisdictions including the Republic of Ireland, Canada, Sweden, and Scotland.<sup>2</sup> We recommend that, to ensure the full range of harms are redressed, there should be two streams of compensation available to survivors: the first, a common experience basic level payment, should be awarded to any person who attended a residential institution; and the second, an individual compensation assessment scheme, should be awarded to those who suffered sexual, physical, psychological and other serious abuses while living in residential facilities.

We believe our recommendations address the need for a fair, just and comprehensive approach towards redress. They will provide greater certainty, less risk and a more defensible outcome than civil proceedings which can be costly, lengthy and frequently re-traumatise survivors and their families. In addition to the human cost, we contend that the financial cost of court actions, administrations and legal aid would probably exceed the cost of such a redress mechanism to settle claims out of court in a timely, fair and just manner. Civil litigation is likely to significantly increase with the publication of the current investigative process into historical institutional abuse and inevitable media attention.<sup>3</sup> Our recommendations offer an alternative to civil litigation, and an expedient and mutually beneficial outcome to all participating stakeholders, which will assist healing and closure.

We have developed guiding principles that should underpin the discussion, implementation and approach to redress. These include adopting a human rights-based approach; respecting human dignity and gender equality; doing no harm to survivors; and avoiding re-traumatisation. Any such process should contribute towards healing and resolution. The guiding principles will ensure that redress proceeds on the basis

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<sup>1</sup> See Appendix 2, Panel of Experts biographies.

<sup>2</sup> See Lundy, P. Redressing Historical Institutional Abuse: International Lessons, Ulster University Seminar Report, March 28, 2015.

<sup>3</sup> On publication of the Ryan Report in 2009, redress applications increased significantly. These were late applications to the Residential Redress Board.

of mutual trust, fairness and respect. It is crucial for the integrity of the process that from the outset participating stakeholders sign up to and respect these principles.

Survivors and their families have suffered unimaginable harms and trauma. They are often significantly disadvantaged, experiencing high levels of unemployment, ill health and poverty. It is the Panel's view that the rationale for any scheme should be to enable survivors to access fair and just redress for historical abuse. Survivors have waited a considerable time for a process to acknowledge and redress historical wrongs. Delay is causing further unnecessary distress. Many survivors are anxious to find a way forward and move towards repairing their lives and building a better future for their families. In the absence of an agreed redress process, these unresolved injustices will be allowed to fester, and deepen hurt and mistrust. We encourage the Northern Ireland Executive to restore the dignity of survivors by responding with generosity, compassion and speed.

The Panel present this report in the hope that it will make a positive contribution to policy development and the speedy resolution of redress for survivors of historical institutional abuse. It is intended to provide sufficient detail and context to help focus the debate concerning redress and offer options that are fair and just for the future.<sup>4</sup>

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<sup>4</sup> The second report commissioned by the Panel will set out in detail the mechanics of a model redress scheme. This will be published later in the year.

# Acknowledgements

The workshops were facilitated by Mary McCallan (WAVE Trauma Centre); Beth McGrath (WAVE Trauma Centre); Áine Magee (Bridge of Hope); Joe Robinson (The Junction); and Alison Murray (The Junction).

Thank you to Maeve Lewis (One in Four) for her presentation and Contact Northern Ireland for providing counselling support during and after the workshops.

I wish to express my gratitude to the survivors who attended the workshops and engaged in open and frank discussion on the sensitive topic of redressing historical institutional abuse.

I am grateful to SAVIA, Survivors North West, Birth Mothers for Justice and Rosetta Trust for their assistance and cooperation in ensuring that as many survivors as possible were informed about the event and participated in the workshops.

Special thanks to Dr Olivia Barnes for her research assistance in the preparation of this report.

The Panel are extremely grateful to Ulster University for funding the workshops, report and launch of this report.

This report would not have been written without the hard work, goodwill and commitment of the Panel of Experts on Redress.

# Introduction

## The Project and Panel of Experts on Redress

This report was commissioned by the Panel of Experts on Redress (hereafter Panel). The Panel's remit<sup>5</sup> is to determine what survivors want from redress; define the elements of redress; and what type of mechanism(s) could deliver redress to meet the needs of survivors.<sup>6</sup> The Panel is made up of individual survivors, survivor groups, human rights organisations, academics, practitioners, members of the legal profession, and national and international experts.<sup>7</sup> The Panel is a survivor-driven process;<sup>8</sup> its primary objective is to bring survivors' views to the foreground. Apart from the support offered by Ulster University,<sup>9</sup> the Panel has received no funding and members work on a voluntary basis.

This is one of two reports commissioned by the Panel.<sup>10</sup> The focus of this report is to determine what survivors of historical residential institutional abuse want from redress. The Panel acknowledges that all survivors of historical abuse are entitled to redress. The Terms of Reference of the Historical Abuse Inquiry (hereafter the HIA Inquiry) restrict its focus to an examination of historical abuse that took place in residential institutions for children (other than schools).<sup>11</sup> An institution in simple terms is an organisation where children lived away from their families with non-family members taking responsibility for everyday decisions and making provision for the day to day care of the children. This includes borstals, children's homes, juvenile justice centres, orphanages and training schools. As a result, the Inquiry excludes some survivors of historical child abuse, including clerical child sexual abuse perpetrated in the community outside children's institutions.<sup>12</sup> It is hoped that the work of the Panel will provide a blueprint for other survivors struggling to achieve 'justice' for historical abuse. 'Justice' for survivors requires appropriate and effective redress.

For those children who experienced abuse, it is vital that their experiences are recognised as human rights violations and breaches of law. Under international law, the term 'reparation' generally implies measures for the redress of harms resulting from certain crimes or breaches of state responsibility.

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5 See Appendix 1, Panel of Experts on Redress Terms of Reference.

6 The Panel was formed after a series of meetings and discussions in early October initiated by Professor Lundy and Professor Kathleen Mahoney, University of Calgary, Canada. The discussions involved survivor groups, individual survivors, human rights organisations, legal representatives, academics and others.

7 See Appendix 2, Panel of Experts biographies.

8 Survivors play an active and central role in the Panel. All decisions on redress reflect their full input and agreement. Survivor groups undertook to discuss with their members the proposals put forward by the Panel; this information was fed back to the Panel via survivors represented on the Panel. The Panel discussed at length the report and recommendations, in particular. The role and input of legal representatives was advisory and undertaken without charge (pro bono). A special thank you to Malachy McGowan for his assistance and detailed feedback.

9 The workshops and this report were funded by Ulster University.

10 The Panel commissioned a further piece of research. The second report will discuss in detail the structure, elements and processes of a model redress scheme; it will be published later this year. The workshops report - what survivors want from redress - informed this work.

11 This requires the Inquiry to address three questions: (i) What were the duties of the institutions and the state towards the children? (ii) What constitutes "abuse"? (iii) What amounts to "systemic failings"?

12 The inquiry excludes victims and survivors of clerical child sexual abuse perpetrated in the community "who were molested in churches, church halls, private homes and other locations outside children's institutions". See, Amnesty International UK, 'Northern Ireland: Amnesty and abuse victims call for clerical abuse inquiry'. AIUK, 20 November 2012 [Online]. Available at [http://www.amnesty.org.uk/news\\_details.asp?NewsID=20454](http://www.amnesty.org.uk/news_details.asp?NewsID=20454).



The Basic Principles and Guidelines on a Right to Remedy and Reparation adopted by the UN General Assembly in 2005 explicitly recognise reparations as a right.<sup>13</sup> The Guidelines, while not prescriptive, identify five forms of reparations. These are: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. In Northern Ireland, OFMDFM has chosen to use the term 'redress'. The two terms are broadly similar in meaning. The Panel was keen to ensure that survivors' voices remained centre-stage in this report. The second report commissioned by the Panel will present in detail the structure, elements and processes of a Model Redress Scheme and the legal obligations that underpin demands for redress.

The official view has been that initiating redress measures could prejudice the HIA Inquiry final report and recommendations.<sup>14</sup> This position seems untenable in light of Judge Hart's announcement that the HIA Panel "will recommend that there should be a scheme to award financial compensation to those children who suffered abuse in children's homes and other institutions in Northern Ireland between 1922 and 1995".<sup>15</sup> This unprecedented move was well received by many survivors, particularly in view of the Assembly's decision to extend the HIA by one year to allow adequate time for survivors to be heard and for the Inquiry to consider the evidence and make its report to the Executive. To date, policy-makers have not consulted with survivors and their representatives on redress measures and processes.<sup>16</sup> Survivors' views on redress, and the impact of such processes, are conspicuous by their absence in research and policy literature.<sup>17</sup> This report goes some way to addressing these shortcomings.

In this report, the term 'survivor' rather than 'victim' is used whenever possible to describe those who suffered historical institutional abuse.<sup>18</sup> It is acknowledged that the term 'victim' may be appropriate in addition to, or instead of, 'survivor' in some situations. It is important to point out that survivors are not a homogeneous group; they are individuals with a variety of responses to abusive experiences and they are likely to have a diversity of needs.

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13 Basic Principles and Guidelines on the Right to a Remedy and Reparations for Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, G.A. Res. 60/147, U.N. Doc. A/RES/60/147 (March 21, 2006) [hereinafter Basic Principles and Guidelines]. The Guidelines state for such victims "reparations should be proportional to the gravity of the violations and the harm suffered."

14 The Inquiry Report will be presented to the Northern Ireland Executive within 6 months of the conclusion of the Statutory Inquiry and will include recommendations and findings on: institutional or state failings in their duties towards the children in their care and if these failings were systemic; an apology – by whom and the nature of the apology; recommendations as to an appropriate memorial or tribute to those who suffered abuse; the requirement or desirability for redress to be provided by the institution and/ or the Executive to meet the particular needs of victims.

15 Sir Anthony Hart, Chairman of Historical Institutional Abuse Inquiry, Statement, Wednesday 4 November 2015.

16 Judge Hart announced a targeted consultation by means of a questionnaire 4 November 2015.

17 Professor Patricia Lundy has been researching historical institutional abuse and redress since November 2014 when Ulster University's Ethics Committee granted ethical approval. Her research in addition to the work carried out for this report and is due to be published shortly.

18 The Basic Principles and Guidelines define victims as "individuals who individually or collectively suffered harm", including 'the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or prevent victimization'.

# Purpose and Structure of the Workshops

In order to explore what elements of redress survivors value, five workshops were held over a two day period in Belfast on November 21<sup>st</sup> and in Derry/Londonderry on November 27<sup>th</sup>. Survivors were invited through existing networks and contacts including the main survivor groups (SAVIA, Survivors North West, Rosetta Group and Birth Mothers for Justice), legal representatives, human rights organisations, word of mouth and limited media engagement. Approximately 75 survivors<sup>19</sup> attended the workshops. Participants had all attended a residential institution; most had engaged in the HIA Inquiry but some had not. A methodology built around small, closed workshops was designed to provide a 'space' that would empower participants to share their views on redress measures and mechanisms that could meet their needs. A professional counsellor was available throughout the day and workshops were facilitated by trained individuals with extensive experience in working with victims and survivors. Detailed notes were taken and the sessions were recorded with the full consent of participants.

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<sup>19</sup> It is difficult to give a precise number that attended workshops because survivors joined the workshops at various times throughout the day.

# Part 1: Workshops: Findings and Discussion

## Eligibility

### *1. Who Should Get Redress?*

Workshop participants were asked to consider who should be eligible for redress. For the purposes of the workshops, redress was broadly defined as a “remedy or compensation for a wrong or grievance”; redress measures can be financial and non-financial, material and symbolic.

There was general consensus across the five workshops that any redress scheme should be inclusive. Survivors should be eligible for redress regardless of whether or not they had attended and given evidence to the Inquiry. In a number of workshops, discussion included reference to the Inquiry’s ‘Terms of Reference’.<sup>20</sup> It was stated that anyone who met the Terms of Reference should be entitled to redress. This position was further supported by a recent statement by Judge Hart; survivors were of the view that the statement included both those who attended the Inquiry and those who did not.

The following abstracts from Judge Hart’s statement were presented at the start of the workshops:<sup>21</sup>

“Because our investigations are not complete we are not yet in a position to say what our findings of systemic failings will be, or what all our recommendations will be. However, what we can now say is that from the evidence we have heard so far we will recommend that there should be a scheme to award financial compensation to those children who suffered abuse in children’s homes and other institutions in Northern Ireland between 1922 and 1995.”

“Sometimes people who approach us ask whether they might be excluded from any redress scheme if they do not make a formal application to the Inquiry, or do not come to the Inquiry to give evidence. We want to assure everyone that, whatever form of redress scheme we recommend to the Northern Ireland Executive, we will make it clear that anyone who might be entitled to participate in a redress scheme should not be excluded because they did not approach the Inquiry, or did not give evidence, or did not complete the questionnaire even if they did approach the Inquiry.”<sup>22</sup>

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20 The Terms of Reference of the Inquiry restrict its focus to an examination of historical child abuse perpetrated in residential institutional settings within the following narrow parameters: the NI Executive’s Inquiry and Investigation into historical institutional abuse will examine if there were systemic failings by institutions or the state in their duties towards those children in their care between the years of 1922-1995. For the purposes of this Inquiry “child” means any person under 18 years of age; “institution” means anybody, society or organisation with responsibility for the care, health or welfare of children in Northern Ireland, other than a school (but including a training school or borstal) which, during the relevant period, provided residential accommodation and took decisions about and made provision for the day to day care of children; “relevant period” means the period between 1922 and 1995 (both years inclusive) – See, Northern Ireland Executive, ‘Terms of Reference’. NIE: Belfast. Available at: <http://www.hiainquiry.org/index/documentation/terms-of-reference.htm>.

21 Sir Anthony Hart, Chairman of Historical Institutional Abuse Inquiry, Statement, Wednesday 4 November 2015.

22 In a separate and additional Press Release, Inquiry Chairman Announces Future Plans, 4 November, the following was stated – “Any recommendations that we make for any form of redress, including compensation, will apply to any person who was abused within a children’s home or other institution within our Terms of Reference, whether or not that home or institution was investigated by the Inquiry.”

After further discussion, workshop participants suggested the following broadly similar definitions of eligibility:

"I think that anybody who was in a home placed either by the State or their parents should be entitled to whatever compensation is made available. I mean, that's a broad definition. I think anybody who's been in a home should be entitled; and I suppose one would want varying degrees of compensation depending on the abuse suffered as well." (Male Survivor)

"Anybody who was in a home should be entitled." (Male Survivor)

"Anyone who was in an institution regardless of why they were put there; they should all be entitled to compensation." (Male Survivor)

"Anybody who has spent any time in a religious institution irrespective of how long; if their life has been affected by that stay." (Male Survivor)

Participants acknowledged and discussed a variety of reasons why some survivors did not, or felt they could not, attend the Acknowledgement Forum and/or the Statutory Inquiry. Participants also said that, due to the nature of the public inquiry, some survivors may have felt too stressed to give evidence; some were unaware of the Inquiry or had found out too late; and others cited old age, poor health, vulnerability, not wanting to 'rake over the past', embarrassment, shame and concerns about being identified as victims in their current employment or within their families as possible reasons. It also emerged that some survivors had not disclosed to their spouses and/or children the abuse they had suffered. The following quotes indicate the nature of silence in the lives of some survivors:

"It wouldn't be talked about. I wasn't allowed to talk about it, or tell anyone where I was, not even a friend, I became isolated ..." (Female Survivor)

"Some families don't even know ... they created false pasts so that they could get over it, there's all different reasons why people haven't come forward." (Male Survivor)

"There's people like me, I've never sat down and said to my own family that I was in an institution ... I can't do it." (Female Survivor)

There was empathy and concern about those who might be excluded from any future redress scheme. It was clear that most of the participants knew other survivors who, for a variety of reasons, had not engaged in the Inquiry. This next quote captures the complexity of the eligibility question:

"I have five other siblings who were in the home with me yet I'm the only one who has gone through this process because they don't want to relive the torture again." (Male Survivor)

For all of the reasons outlined above, it was considered appropriate that no survivor who had been a resident in a care home or institution should be excluded from receiving redress.

However, some participants expressed the view that priority should be given to survivors who had come forward, attended and given evidence to the Inquiry. This opinion appeared to be connected to experiences of the Inquiry, namely, that it was a difficult process and had brought back memories and trauma which had been hidden for many years. Thus, according to one participant:

"Those who came forward should definitely be at the top of the list." (Male Survivor)

## ***2. Deceased Survivors***

The question of eligibility was widened to include deceased survivors. Participants were asked whether the family, spouse or siblings of deceased survivors should be eligible for redress. In such situations, it was felt that a payment to the spouse or children of a deceased survivor would be an acknowledgement and mark of respect. This opinion is reflected in the following quote:

"A mark of respect and an apology for the person who is no longer here, remember they were in the system, maybe the system contributed to the bereavement of that person through mental, physical, psychological, even moral bankruptcy ... so their siblings should be entitled to that [redress]." (Male Survivor)

Further caveats were applied to eligibility. These included whether eligibility should apply only to survivors who had died since the start of the Inquiry process or whether it should apply to survivors who had never taken part in the Inquiry but who had been abused within a residential institution. In the two workshops where this issue was discussed, there was consensus that the spouse or children of deceased survivors should be entitled to put forward a claim for redress on behalf of the deceased. There was general agreement that those making claims on behalf of the deceased should be entitled to full compensation rather than a percentage payment:<sup>23</sup>

"It should be the same as what everybody else is getting, you can't say well that person is dead now we'll give their siblings a little bit of money, but that little bit of money maybe wouldn't have compensated for the length of time and the torture and torment that person has suffered." (Male Survivor)

A small number of participants expressed some outlying concerns about eligibility. One individual voiced unease about the fairness of eligibility. However, when gently probed she could not pinpoint the reasons behind her unease:

"When it comes to how much money we get and who's eligible, personally I feel already that it's not going to be fair." (Female Survivor)

In two of the five workshops, participants expressed unease that there could be individuals who might attempt to misuse or exploit a redress scheme:

"I think it's a bit dangerous, in a context where there is a lack of records kept no one can prove the actual situation; sure anyone could say I was in a home and I was abused." (Male Survivor)

The need for safeguards to distinguish between genuine and bogus claims of abuse was raised. In one of the two workshops, it was further discussed that a tariff table (a weighted points system used to evaluate

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<sup>23</sup> In the Republic of Ireland, awards were available to the families of persons who died after making an application in the same amount as if they were still alive.

severity of abuse) could encourage exaggeration about the severity of abuse. Thus, for some, a rigorous verification process was required:

“Verification, there needs to be a verification system ... particularly the religious institutions, their record keeping was crap.” (Male Survivor)

Redress schemes are said to be less stressful and traumatic for survivors. They are preferable to testifying in court proceedings which can be adversarial and expose survivors to invasive personal scrutiny, re-traumatisation and re-victimisation. In this regard, and connected to the points raised above, there is an onus on survivors to prove that they have been ‘damaged’ through institutional records, police reports or physiological assessment. It was contended that if the ordinary civil burden of proof is applied in a redress scheme, then some genuine victims may find it difficult to ‘prove’ their case and this could re-traumatise and re-victimise them. This was directly linked to concerns about serious gaps in institutional records. A number of participants noted that historical investigations present significant challenges: records have been lost or destroyed over time; and potential witnesses may be dead, can claim ill-health and/or are unable to be located. This has created anxiety, and was viewed by survivors as a matter of serious concern. In addition, in one workshop the issue of evidence given to the Inquiry without legal representation was raised. It was felt that the Inquiry’s transcriptions of evidence could be accessed and used against them by defendants’ lawyers in a future redress scheme. The consensus within this group was that transcripts should be destroyed at the end of the Inquiry and/or should be deemed inadmissible in any redress scheme.<sup>24</sup> In addition, participants said they were expected to retell their ‘story’ to different processes, on numerous occasions, over time (institutions, police, HIA Acknowledgement Forum, Statutory Inquiry, civil cases, counselling and perhaps a redress scheme).<sup>25</sup> The burden on survivors to retell their stories of abuse and injuries, and the potential to re-traumatise, is a valid point and worthy of consideration in the design of any future redress scheme.<sup>26</sup> The discussion on eligibility concluded that all survivors must be treated fairly and that a redress scheme should be consistent in its treatment of survivors and should not re-traumatise or re-victimise survivors.

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24 The Inquiry itself could not qualify as a finder of fact for this purpose due not only to the imbalance in legal representation and access to evidence between those coming forward to give evidence that they had been abused in contrast with the institutions responsible for their care, but additionally as the Inquiry has constantly maintained that they are not determining whether individual allegations of abuse took place.

25 In the Republic of Ireland’s Industrial Schools redress process, the Board could make a decision about compensation based on the paper evidence only. In fact, many of the awards were made in this way. The Board had the discretion to require an oral hearing and the survivor could also request an oral hearing.

26 The same point has been raised with regard to conflict related historical cases, see Gender Principles for Dealing with the Legacy of the Past, Legacy Gender Integration Group, Belfast, September 2015.

### **3. What Should Survivors Be Compensated For?**

A significant amount of time was given to exploring aspects of compensation. There were various views and perspectives discussed but participants were generally in agreement that compensation or reparations were a right, not an option, which the state was obliged to deliver.<sup>27</sup> At the same time, many participants emphasised that although it appears that governments must accept a broader role in providing effective and fair redress, the primary responsibility is with the institution, whether government or otherwise, in which a survivor was abused.

Discussion on compensation began with views on what survivors should be compensated for. Facilitators advised participants not to discuss or recount personal experiences of abuse but to indicate more generally what survivors should be compensated for. Participants referred broadly to the categories of physical, emotional and sexual abuse, and the long term consequences for their health, emotional wellbeing and socio-economic circumstances. The impact of 'being institutionalised'; losing their childhood; neglect; living in a de-personalised, harsh and unloving environment; receiving substandard education; unreasonable punishment; public 'shaming' and punishment; inferior food; and being told daily what to do but receiving little or no advice on life after care were constant themes raised in workshops. Forced separation from children and adoption without knowledge and consent were particular abuses mentioned by some female participants. These forms of abuse were randomly introduced throughout discussions and surfaced in all five workshops but were not prompted or delved into by facilitators. This was considered inappropriate given the open nature of the workshops and the potential to upset and re-traumatise.

Discussion then turned to how these overlapping abuses had deeply impacted and shaped survivors' lives. This included physical and mental health problems; post-traumatic stress disorder (PTSD); loss of opportunity to pursue a career and inability to earn an income; low educational attainment; inability to adjust or cope after leaving care; difficulties forming relationships due to a lack of trust; breakup of marriages; difficulty bonding with siblings and their own children; shame; and dependence on alcohol and/or medication as a coping mechanism. The general consensus across workshops was that compensation would validate survivors' experiences. It would also go some way to rebuilding those lives that had been forever changed for the worse as a result of their experiences of abuse and its effects. The following quotes indicate the type of impact such experiences had on individuals:

"A lot of us can't work, because we have taken a lot of sickness out of this, it affected everybody's life in a different way ... I couldn't keep a job down, although I love work ..." (Female Survivor)

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27 In accordance with international and domestic legal obligations, states must provide reparation for "acts or omissions which can be attributed to the state". States should also ensure provision of reparations in circumstances where those responsible are not in a position to do so and ensure enforcement of reparations arising from domestic and international legal judgments (Basic Principles and Guidelines, 15, 17). The accountability of institutions is a legally complex area "but there has been increasing recognition that institutions can be vicariously liable for the actions of their employees due to being directly responsible for the organisation's systems and procedures, or lack of them" (Hall, 2000, cited in Duncalf et al., 2009, Time for 'Justice', The Care Leavers Association & Scottish Institute for Residential Care, p.14). The law in England and Canada has developed so that "depending on the circumstances, an institution owes a duty of care to children entrusted to it which may be breached by the deliberate and criminal act of a 'member' of the institution, without negligence on the part of the institution itself" (Royal Commission into Institutional Responses to Child Sexual Abuse, Redress and Civil Litigation, The Hon Justice Peter McClellan AM, Chair, Royal Commission into institutional Responses to Child Sexual Abuse, p.4-5). Thus, it would appear that a crime committed by a member of the institution becomes the responsibility of the institution itself.



"I could never have a partner, I don't trust anybody. Afraid to make friends ..." (Female Survivor)

"Before you know it you are 30 and you have nothing." (Female Survivor)

"You couldn't get an education ... no education so when you are coming out of the home not only do you have no life skills but you have no education or job prospects." (Female Survivor)

"All our nerves are wrecked." (Female Survivor)

The short, medium and long-term impacts and consequences of abuse were alluded to in all of the workshops but were not delved into further for the reasons discussed above. It was generally agreed that all those subjected to abuse suffered in some way. A recurrent theme that framed many of the discussions was the interplay of socio-economic disadvantage and insecurity, marginalisation and the particular vulnerabilities of some survivors.<sup>28</sup>

"Because of where we were, we will never get the top pension. Do you know why? Because a lot of us didn't get the opportunity to work, the doors were closed on us ... I suggest we should get £150 to enhance our quality of life, because of where I came from I'm automatically disadvantaged, we're all disadvantaged." (Female Survivor)

As evidenced in the experiences and views of survivors expressed in workshops, there is a critical need for policy-makers to be cognisant of the depth and breadth of harms and injuries, and their short, medium and long term consequences for survivors and their families. An understanding of the complex, multi-layered and overlapping abuses and injuries suffered should underscore the scope and provision of effective redress to meet the needs of survivors.

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<sup>28</sup> Survivors are likely to be among the most vulnerable, marginalised and economically disadvantaged groups in society. In order to inform policy and practice, such disadvantages and the intergenerational effects of abuse require further research and analysis. Evidence-based research should inform and ensure that redress measures are based on actual and not perceived needs of survivors. The Basic Principles and Guidelines define victims as "individuals who individually or collectively suffered harm", including 'the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or prevent victimization'.



# What Form Should Redress Take?

## *4. Compensation: Common Experience and Individual Assessment*

Participants considered the complex question of how compensation or ‘money sums’ might be determined or calculated. There are many considerations relevant to the appropriate money sum and some participants struggled with this question. Participants expressed the view that compensation was important because it was a symbolic measure; a tangible acknowledgement of the seriousness of the wrongdoing and how it had been handled or dealt with by the state or institutions. It was suggested that compensation should be part of a ‘package of measures’ (these additional measures will be discussed later). There was general consensus that financial compensation, while helpful and desirable, could not by itself repair the harm done.

“Money can’t right the wrong but it can be a mark of acknowledgement.” (Male Survivor)

As noted above, some individuals found it difficult to attach a figure to what survivors experienced living in residential homes and/or categories of abuse and severity of injury caused. Understandably, it was difficult to comprehend how this could be quantified or calculated in money terms:

“You can’t put a price on it.” (Female Survivor)

“It’s about our emotions attached to money.” (Male Survivor)

Nonetheless, clear views on compensation were articulated. There were two specific processes or models identified – a common experience payment and individual assessment. It was further stated that compensation should be a combination of both models.<sup>29</sup> In this regard, several participants referred to and drew upon knowledge of redress schemes in other jurisdictions.

“I think there should be a standard payment, based on the common experience payment in Canada ... just for being there, acknowledgement. That’s a payment outside of anything else, outside of the establishment of a fair tariff table.” (Male Survivor)

“My view from the start has been that anybody that spent time in an institution, irrespective of the length of time that that was, at some point their life has been affected by that stay. Because of that, I think there should be a standard payment based on a common experience. Not about anything that happened to you, just for being there, there’s X number of pounds just for being there. That’s to acknowledge the fact that you were there.” (Male Survivor)

Many participants were aware of redress options; some had detailed knowledge and understanding while others were less well-versed in the specific advantages/disadvantages and nuances of schemes and processes. This prompted discussion about the need for information so that survivors could make

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<sup>29</sup> Common experience relates to shared experience of injury and does not assess individual injuries suffered. Individual assessment models are designed to calculate the individual’s experience and severity of abuse and injuries suffered. The Republic of Ireland created an individual assessment scheme to process Industrial School cases; and a common experience model was used in Magdalene laundries cases. However, Canada combined both models – common experience and individual assessment. Canada agreed to a Common Experience Payment of \$2.9b; an advance payment for the elderly of £8,000 was made.

informed choices about redress and input to the design of a redress scheme that could meet their needs. As discussed later, survivors should be empowered to know and claim their rights.<sup>30</sup>

The sum of £10,000 was regarded as an appropriate baseline payment.<sup>31</sup> This was proposed as a common experience (or minimum) payment for everyone who resided for a period of time in a care institution. Participants said that this would acknowledge the harm.

"This is one of the advantages of a common experience payment ... the fact that you were there, it's an acknowledgement by the government and institutions that you spent time there, whether something happened or not. And, if you don't want it, don't fill in the form; it's as simple as that."  
(Male Survivor)

"That says to me, we recognise what happened to you in our care should not have happened and the damage that it's caused..." (Male Survivor)

There was broad agreement that a common experience payment should be followed by additional compensation based upon individual assessment of the severity of abuse:

"A baseline payment and abuse after that would be more; additional." (Female Survivor)

There was also the view that a common experience payment could be graduated, i.e. that the baseline could increase in accordance with how many months or years an individual spent in a residential institution. This would have the benefit of recognising that compensation should, as far as possible, reflect the amount of harms caused by institutionalisation. A graduated approach such as a payment of £10,000 for the first year or portion of a year in the institution and £3000 per year for every year or portion of a year thereafter, would acknowledge that those who were institutionalised the longest suffered the most harm.<sup>32</sup>

Participants were of the opinion that a common experience payment would most likely not require extensive proof other than verification of having attended a residential institution between 1922 and

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30 Scotland has developed a human rights based approach to justice and remedies for survivors of historical abuse. The rights of individuals are put at the centre of practices and policies based on principles of participation, accountability, non-discrimination, empowerment and legality. For a brief overview, see Lundy, Redressing Historical Institutional Abuse: International Lessons, Seminar Report, March 28, 2015, Shelagh McCall: 'Taking a human rights approach to justice and remedies', p10-15, download copy at [http://uir.ulster.ac.uk/31876/1/Redressing\\_Historical\\_Institutional\\_Abuse\\_-\\_Seminar\\_Report\\_1\\_June\\_2015\\_PDF.pdf](http://uir.ulster.ac.uk/31876/1/Redressing_Historical_Institutional_Abuse_-_Seminar_Report_1_June_2015_PDF.pdf).

31 Recent litigation in historic abuse cases shows that broadly similar amounts would have been awarded to claimants had the limitations period not been applied (see *McKee v Sisters of Nazareth* Ref: HOR9779); the judgment states that "for 'low level' physical abuse (hair pulled & being hit with a strap or ruler) and upset or emotional distress (suffered as a consequence of fearing what would happen to him if he wet his bed) during his 2½ months in care, the proper award of damages lies in the range of between £5,000/£7,500". "In the circumstances if I had found that the plaintiff's claim was not statute barred, I would have awarded him £6,500." "Consequently, if the plaintiff had been entitled to an award of damages, it would have been for a modest sum to reflect the nature of the harsh and brutal regime which was in place at Nazareth Lodge during his short stay there." A copy of the judgment is on file with the author. See also the *Irvine* case, £7,500 for physical injuries and a further £20,000 for psychiatric injuries, *Irish News*, Saturday 14 Nov 2015, p.14.

32 Notably such a scheme was implemented in this jurisdiction in order to distribute the £20 million gratuity provided by the Treasury to just over 6,000 current and former members of the RUC and PSNI Part Time Reserve in 2011. Distribution of those payments was based on a six band service model with the lowest (less than five years' service) receiving 1 point and the highest (over 25 years' service) receiving six points.

1998. This seemed satisfactory to most participants, particularly to those who felt they had waited a considerable amount of time to be acknowledged and compensated.

### ***5. Payment: Methods and Options***

A number of compensation payment methods were put forward by participants. These included compensation being paid in a lump sum or in smaller periodic payments, with the idea of a pension being put forward by some. Whether or not a lump sum payment was the most beneficial option was queried. Those who put forward the idea of a pension or of smaller scheduled payments said they did so due to concerns that not everyone would have the necessary life skills to be able to make sound financial decisions and a lump sum could be spent quickly.

While the majority of participants supported the idea of a pension, they considered that this should be in addition to a lump sum payment. There were strong views expressed that survivors were entitled to compensation and the government did not have the right to withhold or break it down into smaller amounts. Periodic payments seemed to convey the idea that they could not be trusted to manage their own money. There was a general feeling that each individual had responsibility to spend their money wisely. As one participant put it:

“Whether people can look after their money or not is not the government’s responsibility.”  
(Male Survivor)

Others suggested that small periodic payments might perpetuate the relationship between institutions and survivors which for many participants would be unacceptable and counter-productive: “a monthly reminder of the abuse”.

The age of survivors and the length of time that investigations and redress were taking were identified as pressing issues. Numerous participants commented that they were having to wait a considerable amount of time to be acknowledged and compensated, and this had taken its toll on many survivors. It was noted that survivors were not getting any younger and if periodic payments were introduced there was concern that after their deaths the remaining money may not be passed on to their children. In all of the workshops, the issue of an ageing survivor population and excessive delays emerged as a key issue (this theme will be returned to later). Any further redress scheme must therefore take into account the age and health of survivors when determining the chronology of claims.

Many of the participants remarked that compensation should go hand-in-hand with financial advice; several mentioned legal services for the purpose of drawing up a last will and testament for inheritance purposes. Participants concluded that financial advisors could be employed as part of the redress scheme to assist survivors in managing their money but only if survivors expressed a desire for this type of service.<sup>33</sup> As one participant succinctly put it:

“Money advisors, that’s the input we want from them; we don’t want them telling us we can’t have it because we can’t handle it.” (Male Survivor)

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33 Financial advice was available to survivors in the Republic of Ireland Industrial Schools redress process. A Financial Advice Board was created for survivors as part of the redress scheme and it was free.

## **6. Tariff Table: Determining Abuse & Injury**

The idea of a tariff table to calculate and award monetary value according to the severity of abuse and consequential injury is a sensitive issue. At a general level, the majority of participants considered the establishment of a tariff table or weighting guidelines to be essential in order to differentiate between scales or level of abuse:

"A climbing table of compensation relevant to injuries; that has to be established."  
(Male Survivor)

"There are experiences of this, Canada and the Republic of Ireland had tables that listed, that actually listed each incident, each hurt, each damage; all the way through from the seen injuries, which are broken arms and stuff, right through to the unseen injuries which still impact on people today. I'm actually thinking that the psychological damage could be something equivalent to sexual abuse when it comes to how it impacted on people's lives." (Male Survivor)

"A fair tariff table ... If you get a broken fingernail in criminal injuries, as long as it's worth £1,000 you can make an application for that; so we're starting with the broken fingernail all the way up to sexual abuse, everything in between that unfortunately has to have a value put on it. The only way the modern world puts a value on something is to say, and this is what it is worth." (Male Survivor)

However, in all of the workshops this topic clearly made participants uncomfortable and unsettled. Although recognising that it was essential to differentiate between levels of abuse, the most highly debated issue was how to make such a differentiation. How can a scale of abuse and consequential injury be defined and established? Participants debated which type of abuse could possibly be considered worst, with disagreements over, for example, whether or not mental abuse had a greater impact than sexual abuse. Here are some of the views expressed:

"But who says mental abuse is worse than sexual abuse?" (Female Survivor)

"Personally I think sexual abuse would be the worst. It didn't happen to me. Mental abuse left me an alcoholic. I dread to think what sexual abuse would have done to me, but just personally, anybody that was sexually abused, my heart goes out to them and I feel they are entitled to more for having gone through that." (Female Survivor)

"The mental thing and the sexual, are they going to define the difference? Cause one is as bad as the other, how are they going to define it?" (Female Survivor)

"Everybody's interpretation of abuse is going to be different. If you raise your voice, you might have someone who thinks you're abusing them, or I raised my voice because I needed to be heard over 40 other children." (Male Survivor)

Participants pointed out that separation from siblings was worse than the physical abuse they had received and this had a lasting impact on their lives; some individuals mentioned that they had still not been united with siblings. Some participants felt that differentiating severity of abuse and consequential injury has the potential to create a hierarchy of victimhood, the undesirability of comparisons impacting

on self-worth and potential to re-traumatise. The impact on survivors of participating in a redress process more generally was discussed.

"First of all, does it mean re-traumatising everybody that's coming forward, by saying we need you to meet with a psychologist. We need you to meet with a psychiatrist, before we can verify that this has psychologically damaged you." (Female Survivor)

Across the workshops, participants were in agreement that living in a care home and experiencing abuse can affect individuals differently:

"Someone who is abused once could commit suicide, while someone who is abused a thousand times might not." (Male Survivor)

"For each of us it's going to impact on us differently." (Male Survivor)

"I think we are all unique, so I don't think we have a right to justify others, because everyone's pain is unique." (Male Survivor)

What is evident from this discussion is that for survivors there is, and can be, no relationship drawn between the severity and the frequency of abuse and its corresponding impact on individuals. Participants struggled to come to terms with placing monetary value on experiences; ranking severity of abuse and quantifying its impact on their lives.

"I think there's a point you get to where you start talking numbers and it becomes insulting ... demeaning to the people coming forward." (Male Survivor)

"One thing I would say about the graduated scale, you know there were people who suffered horrendous abuse, I think it amounted to torture. For example, they used an electric flex, copper wire and they used that to whip people, how do you compensate that? Should the person be compensated for every time they got hit? Is that not worse than a slap maybe, where you got slapped a bit? Where you actually got physically tortured?" (Male Survivor)

"How are they going to prove how detrimental it was to people's lives?" (Female Survivor)

"We've raised the question, these are the issues, so let them sort it out." (Female Survivor)

Participants therefore recognised that creating a tariff table and quantifying individual experience was a complex and difficult task. While this was clearly an emotive issue and concerns were raised, there was acceptance that some system of guidelines was necessary to ensure fairness, equality and consistency for survivors.

## ***7. Impact on Benefits and Taxes***

An issue that many participants touched upon was tax deductions. The strongly held view and consensus was that not only should any compensation payment be non-taxable but that it should also be protected from inheritance tax. Conversation quickly turned to a matter of considerable worry for many, which is how the compensation payment would impact on social security benefits. Participants repeatedly expressed concern about their disability payments, housing benefits and the trauma they would experience if a

compensation payment resulted in having to forego benefits.<sup>34</sup> As one participant put it:

“If I was offered a payment tomorrow and I lost my benefits as a result I would prefer not to take the payment.” (Male Survivor)

This perspective was shared by most of the participants. A primary concern was that loss of benefits could result in losing one’s home. Thus, any compensation gained would have to be spent on securing a new home and may not cover such an expense. One participant pondered on this:

“Are they giving it to you with one hand and taking it away with the other.” (Male Survivor)

It was considered vital that a clause or stipulation be made to protect survivors’ benefits in any future compensation arrangements. A redress scheme should protect the interests of survivors and must not result in reduction or removal of benefits. It was felt that a redress scheme that does not include such a protection could result in the re-victimisation of survivors and could result in an unsuccessful programme due to low survivor participation rates.

As noted earlier, survivors are likely to be among the most vulnerable, marginalised and economically disadvantaged groups in society. A related topic of discussion was participants’ experience of on-going Disability Living Allowance Tribunals. Participants felt that the tribunal lacked knowledge about historical institutional abuse and did not take experiences of abuse into account when assessing disability benefit claims. It was suggested that tribunal staff and redress board/scheme personnel should receive training about historical abuse and its impact. The concerns about benefits were voiced again when an interim payment was discussed.

## ***8. Interim Payment***

The understanding of an interim payment was that it was a payment by an institution or the state that would eventually be deducted from the final compensation payment. Participants in each of the workshops agreed that this would be a welcome measure as it constituted acknowledgement and acceptance of responsibility on the part of the state and/or institutions. It was reiterated that survivors were growing older, many suffer ill-health and they had waited a considerable amount of time to be compensated. As one participant noted:

“None of us are getting any younger, there are among us people with serious health issues and ones who have already passed away.” (Male Survivor)

In many of the workshops, there was significant discussion about eligibility and criteria. If age was to be a qualifying factor for an interim payment, what should be the cut-off age – 50, 60 or 65? Workshop participants came to the conclusion that there should not be criteria based upon age or ill-health; all survivors eligible for redress should be eligible for an interim payment. As discussions progressed, the concept of a common experience payment was proposed as the preferred option. The underpinning

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<sup>34</sup> Exemption from income tax would not be unusual. Compensation, or damages awarded for personal injuries whether received in one lump sum or over a period are not regarded as taxable income by HM Revenue and Customs (HMRC).



rationale for an interim payment was the pressing issue of time and delays. While participants recognised that there were many issues and aspects that needed careful consideration, they agreed that a common experience payment would be welcome as a form of acknowledgement and a goodwill gesture:

“You were in our care; we acknowledge that we failed in our duty of care ...” (Male Survivor)

“We are looking for our entitlement, under the law our entitlement.” (Male Survivor)

## **Additional Redress: ‘Package of Measures’**

As previously noted, participants were of the view that redress was much more than compensation. It was suggested that a ‘package of measures’ should be implemented. A diverse range of redress measures were proposed. This included acknowledgement and apology; memorials and memory projects; assistance with gaining access to records; counselling and well-being; repatriation; family tracing and family reunion; intergenerational support; restorative justice; survivor participation/forum; and other miscellaneous measures.

### ***9. Acknowledgement and Apology***

Without exception, participants considered acknowledgement to be a central part of redress; it was a recurring theme throughout the day. Participants shared an overwhelming desire for recognition; to have their experiences acknowledged and validated. Acknowledgement was perceived in a broad sense, and it was felt that it could be achieved or symbolised in a variety of ways. This included memorials; assistance with access to records; counselling; the removal of the statutory limitation period in cases of historic abuse; prosecution of abusers; and having their stories told and heard.<sup>35</sup> Some survivors said that the

Acknowledgement Forum and HIA Inquiry had provided a platform for survivors to be heard; others felt that they had been restricted in what they could say or restricted to what was considered relevant by the Inquiry.

Most of the survivors considered that the first step in acknowledgement was an apology. Internationally, official apologies have proliferated as a way to help repair historical injustice. It has been argued that apologies benefit survivors by restoring dignity, repairing hurt and conferring acknowledgment. Apologies can lead to the humanisation of the survivor and the re-humanisation of the perpetrator. They can be a form of symbolic reparation for past wrongs. However, there were doubts that an apology would be genuine, which suggested that lack of trust was a factor.

“I was between 4 and 8 when they abused me and I looked at my son when he was that age and I thought how could anybody do that? So I know they aren’t sorry and they weren’t sorry when they did it, so an apology isn’t ...” (Male Survivor)

The status of the person giving the apology was considered crucial. It was important that an apology came

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<sup>35</sup> The need for reparations (symbolic and material) has been acknowledged in legal instruments, a clear example being the ‘Basic Principles’ adopted by the UN in 2006; see also the Office of the United Nations High Commissioner for Human Rights (OHCHR) publication *the Rule of Law Tools for Post-conflict States: Reparations Programmes* (2008), UN, New York and Geneva.

from those in the highest positions of state, churches and social services. As the following participants put it:

"An apology ... it should and must come from church, state and the religious orders. It has to be from the highest of high." (Male Survivor)

"I think that the head of state should apologise, which means David Cameron and his predecessors; technically speaking, direct rule only ended in 2007, when Stormont was set up in 2007, before Stormont it makes it Westminster's responsible as they set the law and made it over there, to be put in here." (Female Survivor)

It was generally considered that the above institutions or agencies were responsible for the harm and should offer an apology, admission of guilt, acknowledgement and regret:

"My belief is that the government has a lot to apologise for, the clergy done the damage but they knew they were doing it." (Female Survivor)

Thus it could be argued that, if a politician or an individual member of the clergy acts in a personal capacity it may have less effect than an apology given by a top state official on behalf of the state. It has been said that when leaders apologise, they give society permission to say the previously unsayable. In this regard, an official apology does not close the book, but may open a new chapter. However, it was pointed out that many of the individuals directly responsible for abuse were now deceased; this limited the opportunity for an individualised apology. Instead, an apology would be issued by the government or clergy on their behalf. This may indicate that a personal apology from someone involved in a particular act may have more worth to some survivors than a performative act in front of TV cameras from a political leader who was not in power at the time the act was committed.

For a number of survivors it was important that the apology should take place in public and must be unequivocal. As the following quote indicates:

"The apology should be one that is made in public, naming the individual institutions that failed children in its care; the government should also accept its failures and accept that they failed us.

This should take place verbally, and be filmed and recorded by the media from government buildings at Stormont, with many invited survivors, amongst others, present to see and hear this take place.

The verbal apology must be in public and truthfully admit to the abuse and degrading treatment in their church/state run institutions, failing in looking after young children who were placed into their care ....." (Female Survivor)

The ambiguities, (mis)-understandings and meanings attached to words and particularities of language in relation to legal claims is crucial. If specific words are chosen with a view to avoiding the creation of legal entitlement, that is, if regret or remorse is expressed instead of offering an apology, then these expressions are insufficient to be considered an effective remedy.



It was noted in one workshop that the Pope's official visit to Ireland in 2018 could provide the perfect platform for him to meet face-to-face with survivors to offer an apology. The discussion on an apology concluded with a consensus that an apology without accountability, acceptance of responsibility and action was meaningless.

"If the Church, State and the Orders are serious about their apologies, they can only be taken seriously by their commitment to an immediate delivering of a redress system"  
(Female Survivor)

Only one individual stated that an apology would suffice.

"For me an apology would be enough." (Female Survivor)

There was scepticism and some cynical comments about the trend in apologies; this was seen by some as 'hollow gestures' and self-serving. Nonetheless, the symbolism of apologies was regarded as important by most participants.

## ***10. Access to Records***

The workshop discussions revealed that access to records was regarded as a vital element of redress for survivors. This was an emotive issue for many participants:

"My life's a lot of unanswered questions." (Female Survivor)

Survivors talked at length about the difficulties and obstacles they had encountered and the frustration they had felt when attempting to access their records. Experiences were shared about "the barriers and walls" encountered and the disappointment when they had received heavily redacted documents or an A4 sheet with four to five lines of information. It was described by many as an "uphill struggle" where the burden was placed on survivors to search and uncover their records. As one participant remarked:

"Why are our records so secret?" (Male Survivor)

As the following quotes indicate, participants were of the opinion that they had a 'right to know' and that they should be given assistance free of charge to access records from institutions, social services and the Inquiry:

"They [institutions, social services, Inquiry] have our records and we're entitled to that information." (Female Survivor)

"Our lives are in a file somewhere and we can't find out who we are ... our lives are in a secret file somewhere and we should have access to that." (Male Survivor)

Participants remarked that protecting the mental health of survivors was frequently cited as a reason for withholding information. It was suggested that a service of "supportive access" could be established. As one participant put it:

"We need supported access to the information and they are responsible for getting us to the information." (Male Survivor)

There was a great sense of urgency and frustration about accessing records. This was linked to the view

that “time was running out” and this was the “last chance” to access their records and information about their lives. Some felt that after the Inquiry their opportunity to obtain records could be lost.

## ***11. Counselling and Well-being Service Provision***

In regard to strategies for coping, many participants reported peer-support groups as essential to their well-being. Discussion within workshops evolved around the need for community-based provision and peer support:

“It has to be administered by people in our sphere because you can’t pick some professional that doesn’t understand.” (Male Survivor)

Individuals talked about how their local support groups provided a safe place to discuss, to share and to unwind. A number of people expressed a desire to establish a grassroots level support centre which would be open daily. It was accepted that it would require on-going funding. Such a centre would provide holistic support including therapies such as reflexology; a funded full-time counsellor; assistance with locating family members; classes such as art, crafts, photography; and educational courses and assistance with literacy and maths. Such a centre could provide support for those survivors outside of the HIA Inquiry Terms of Reference. As one individual put it:

“There would always be someone there to go and talk to; even if it’s just over a wee cup of tea.” (Male Survivor)

This type of provision was discussed in great detail in almost all of the workshops; it was regarded as something survivors greatly needed and would value. Consequently, it should be funded and established as a matter of priority:

“We need to establish ourselves as an advice centre and we can direct people to the right individuals, like welfare.” (Male Survivor)

Participants connected the need for such provision to their lack of preparedness for life after care; how institutions had “wiped their hands of them” and failed to equip and prepare them for the outside world.

The provision of counselling was discussed at length. The majority of participants felt that counselling should be available to them and their families. Several said that they had suffered PTSD as a result of their experiences in care. One individual described it in the following way:

“The way I look at it is that we opened this Pandora’s box, we all had to open the Pandora’s box and there was no one there; we had to go home and this Pandora’s box is lying open.” (Female Survivor)

It was stipulated that free and unlimited counselling was needed and should be available in the short, medium and longer term. As one participant pointed out:

“Talking about it, you need adequate time or all you are doing is bringing it all back up.” (Male Survivor)

The type of counsellors available was discussed. The participants felt that counsellors ought to be

specialised individuals who understand the perspectives and experiences of survivors:

“Who do you go to? It would take an awful lot of super glue to get me back together.”  
(Female Survivor)

The provision of counselling, along with peer support, was seen as essential to survivors’ well-being; any future redress scheme should make adequate provision for these services. Redress could take the form of a payment to the survivor. This would enable them to obtain the type and duration of their future care with a counsellor or method of healing of their own choosing. The amount could be capped, reflecting the amounts courts award for future psychological care.

A further issue touched on was the lack of formal and informal support networks available to survivors living outside Northern Ireland, and the island of Ireland.

“My sister and I have been to Banbridge and gave our evidence; but where she lives now, how does she get help? I had to come here [to the survivor group]. What is she going to do? What is she and others like her going to get? There’s no support for her over there. How is she going to get information?” (Female Survivor)

This is an important issue and one that demands further research in order to establish the scope and needs of survivors living outside Northern Ireland who have left for one reasons or another to live in various parts of the UK and beyond.

## ***12. Memorials and Memory Projects***

Initially, there was opposition to a memorial in a number of workshops. However, as the discussion progressed and different ideas and possibilities were explored participants began to link a memorial to acknowledgement, recognition and to generating public awareness. Ideas were put forward that a memorial could be a space or monument created for reflection; a physical object or space that would stand as a reminder to this part of Northern Ireland’s history:

“I think a statue would be lovely, they are very beautiful, all that it brings is a space for reflection.” (Female Survivor)

“A stained glass window in the Guild Hall or City Hall; a window would always be there. Tour guides go there, it would remind, educate ...” (Male Survivor)

“I think a statue would be lovely, very powerful The Vietnam one that’s in America, the wall, I think it’s just amazing and all the names, who died; I’m not saying put all our names up, but something that people can go and look at.” (Female Survivor)

“I think that there has to be something where the people who are responsible for the situation will be and once they look at it, it will remind them of what their institution has done; that they will never be able to forget or never be able to do it again on others.”  
(Male Survivor)

“The institutions have to be permanently reminded. This society has to be permanently reminded of its failings. Most of the people responsible for the institutions are dead. But

there are children who will ask the question, what's that about? And somebody will have to say, this is a legacy that the state failed." (Male Survivor)

The key concerns were that a monument could be forgotten and ignored in a number of years; and where would a monument be located? Belfast, Derry/Londonderry or both? Not all participants agreed with the idea of a monument. Many expressed the view that it would be a depressing reminder about a period in their lives they were trying to forget and they did not wish it to be memorialised:

"I would never want to go to a monument, it would bring me down." (Male Survivor)

"We don't need memorials, what we need is for people to understand." (Male Survivor)

The idea of a living memorial was put forward. It was suggested this could be in the form of an educational bursary for their children and children's children to support access to education and university. This fund would be in addition to the funds set out for the common experience or the individual assessment fund. As the following quotes indicate, this idea of a bursary was extended to those in care generally and even wider society:

"A memorial fund set up to help kids coming out of care." (Male Survivor)

"Our children are disadvantaged. Our grandchildren are still going to be disadvantaged by the experience that we went through. An educational bursary initially aimed at our children and grandchildren and then broader society. A grammar school or university scholarship, a training scholarship that's paid for, that they don't get into debt for." (Male Survivor)

Another proposal was that an International Rights of the Child Prize with a similar status to the Nobel Peace Prize could be awarded to those who make a significant contribution to the rights of children.

Discussion then turned to establishing a living memorial or research centre that would include, among other things, an archive of survivors' stories. This type of initiative would offer survivors the opportunity to tell their story in their own way. It would be a narrative of their experiences. The following are a number of comments made by the participants:

"An opportunity to tell who we are." (Female Survivor)

"A future record; that would be a good idea." (Male Survivor)

"(If anonymised) I don't care who actually reads what happened to me or to anybody else in those institutions which were a part of this society. This society literally closed the gates on us, pulled a blanket over, and said that's got nothing to do with us. Closed their eye... and the only people who got beyond that veil were unfortunately people who knew how to work a system and that would give them access to some of the most vulnerable people in this society and that's fucking unforgiveable." (Male Survivor)

It was made clear that this must be a voluntary, personal choice that individuals could opt in to. There were concerns about the safeguards that could be put in place and finding a balance between the need to raise public awareness and the need to keep individuals anonymised. The concept of educating the

public led to further discussion about raising awareness in schools. This could be done with an advocacy book that included a number of survivors' anonymised stories which could act as an educational tool and a reminder of the principle 'never again'. Having the history of the institutionalisation of children mandatorily included in school curricula would be another approach to achieve this goal. This discussion repeatedly emphasised that memory projects were a symbol of acknowledgement. Such projects would serve to remind, educate and validate their experiences of abuse which had been silenced for decades.

### ***13. Restorative Justice***

The concept of restorative justice was discussed in two workshops; opinion was divided on the desirability and feasibility of such a process. Participants discussed the healing and cathartic potential of meeting with their abusers and having the opportunity to ask questions and receive answers. Here are some participants' views:

"It's not for everybody, but for me personally I would like that sort of situation to occur."  
(Male Survivor)

"I think some people might be ready for it, I wouldn't." (Male Survivor)

It was suggested that restorative justice could be made available to those who wished to partake:

"Don't close the door, leave it open because each person is an individual with individual needs." (Female Survivor)

"It has to be a demand made by us, so it can be there for those who want it." (Male Survivor)

It was felt that such a process would require the provision of a safe environment for open discussion, adequate preparation of all the stakeholders involved and a skilled facilitator. The majority of those interested in a restorative process cited reasons such as seeking answers, and wanting to rebuild their lives and move past their experiences:

"I always wanted to get an apology and explanation; that would be of more use to me than money. You know, maybe it was the system at the time, maybe it wasn't their fault or maybe there were many players at fault here." (Male Survivor)

"If I could have met her maybe she could say look this wasn't your fault, you were only a youngster at the time and then I could move forward." (Male Survivor)

"I want to know, cause social services won't give me that information, I want to know what I was like, who I was." (Male Survivor)

"So my mind can process it and I can move on." (Male Survivor)

"I would want to sit down and talk to her if she was willing to talk to me." (Male Survivor)

Those with strong reservations questioned the feasibility of such a process; many considered it impractical since many of those involved were either dead or in denial:

"A lot of them are dead now, we can't go back to that, we can't have that opportunity."

(Female Survivor)

Participants queried whether a relationship existed to repair or whether forgiveness would be forthcoming:

"What follows on the back of it is forgiveness and without that it is a pointless process."

(Male Survivor)

Some wondered what abusers might get out of the process. The general consensus was that for an abuser to come forward and tell the truth they would want some form of immunity from prosecution and criminal proceedings.

"They'd be looking for some sort of protection, if they came forward and told the truth; they'd be looking for protection." (Male Survivor)

This created further debate between those who wanted a restorative justice process and those who did not. The central issue was: if an abuser was willing to take part in a restorative process for one of their victims, how would that impact their other victims? Would it affect prosecutions and criminal proceedings?

There were those who wanted to meet face to face with their abusers but not necessarily for restorative reasons:

"I think I would like to throw it in their face a bit." (Female Survivor)

#### ***14. Repatriation and Family Reunification Fund***

In most of the workshops, it was suggested that a repatriation fund should be established to enable survivors who wished to return home to Northern Ireland to do so. Participants shared examples of survivors they knew who, due to ill-health, wished to return home to be buried in Northern Ireland. Connected to this was the issue of family reunification. Again, participants shared stories of longing to be reunited with siblings they had been separated from while in care:

"I wonder if there could be anything put in place to reunite families." (Male Survivor)

Because of the emotional impact of family separation, it was said that a service to help trace family members and facilitate reunion should be established. Given the time constraints of the day, the issues of repatriation and family reunification were not fully explored.

#### ***15. Intergenerational Issues***

Repatriation was linked to intergenerational issues. As noted earlier, this theme was interwoven in the discussions throughout the day. However, again time constraints did not allow facilitators to explore this issue separately and in more depth. The following are just some of the comments made:

"We need a holistic look at supporting the family." (Female Survivor)

"My wee ones are disturbed in the way I am disturbed because of the way I come across to them." (Female Survivor)

"I'm sure it affects most of us here, all our own children have these wee idiosyncrasies about them ... there is an element of, what do you say, they don't know much about what happened to me but they know where I was and they can put two and two together. There's a need for them to be educated as well, and not only educated but counselled." (Male Survivor)

"I've never been the mother that I wanted to be because of the life ..." (Female Survivor)

"They have their own children now, but they don't realise that they are doing onto their own children mentally and psychologically what was done onto them, and they're doing it through no fault of their own. They just don't realise ... you understand?" (Male Survivor)

## Other Measures

Throughout the day, other redress measures were raised. Some of these were said to be essential elements of any redress process such as survivors losing out on an adequate pension due to low educational attainment and limited job prospects. Funeral expenses were mentioned and examples were given of families who were unable to pay the funeral costs of a loved one who had died since the Inquiry process had started. Connected to this was the suggestion that a tombstone – a symbol of recognition – should be erected to those who had died; some pointed out that a number of survivors had committed suicide. Other issues such as educational needs, provision of dental care and general advice about benefits and rights were mentioned.

### *16. Statutory Limitation Period*

The statutory limitation period for lodging a civil claim emerged as an issue of concern. A number of participants were unfamiliar with the concept and did not realise that historic abuse cases could be time barred. As the following quotes show, participants saw this as an injustice:

"Morally it is something which should be done away with." (Male Survivor)

"I would say that the state is perpetrating a further abuse by using the time bar." (Male Survivor)

"It should be open ended; new information and documents are always coming out so it should be open ended." (Male Survivor)

It emerged that for many survivors the damage caused was so profound that it was not surprising it had taken survivors many years and even decades to be able to come forward to talk about their abuse. It was pointed out that some survivors managed to 'bury' their experiences for a time; some people muddled through and others did not understand that they had been damaged. It was mooted that if a redress scheme was established, it would logically follow that the statute of limitations would have to be amended or waived as part of the settlement package; the Statute of Limitations (Amendment) Acts in the Republic of Ireland and Canada were mentioned in this regard. Participants were determined that the statutory limitation period should be amended or waived as a matter of priority and without delay. Participants involved in this discussion felt that those previously denied compensation due to the statute of limitations should be allowed access to the redress scheme to resubmit their claims.



## ***17. Way Forward: Survivor Empowerment and Participation***

Participants were keen for survivors to become empowered to play an active role in the design and shaping of any future redress scheme and in its implementation. A Survivors Forum, Survivors Commissioner and Ombudsman Office to protect survivors' rights was discussed. Survivor participation must be formally recognised; survivors should not merely be considered to be playing a consultancy role:

"An on-going survivor's commission, victim/survivors participation in the redress panel itself; this should have formal recognition of victims and survivors as panel members." (Male Survivor)

"Three quarters of the commission should be made up of survivors and one quarter by professionals; this is about us not about civil servants." (Male Survivor)

Participants recognised that they needed a committee or forum of victims and survivors that were "well versed and realistic", "able to meet with those in parliament and take this forward." (Male Survivor)

Again, the need for information, genuine consultation and outreach work was raised. It was considered that a specialist advocacy service whose legal fees would be paid for by the state would reduce the burden put on survivors. These issues emerged at the end of the day and time constraints did not allow survivors to fully explore participation and survivor empowerment.

Some participants briefly noted that the Inquiry process had limited the role of lawyers and this is how a redress scheme should also proceed:

"From day one the inquiry has sought to be victim led, not lawyer led. So redress should be the same. Every penny that goes to them is a penny less for our survivors." (Male Survivor)

"Lawyers eat up all the money." (Male Survivor)

"They use delay tactics." (Male Survivor)

It was pointed out that not all lawyers fitted this description. Others pointed out that legal advice was essential if survivors were to "know their rights" and that redress (and particularly compensation) would not be shaped to suit the state and other powerful interests.



## Brief Summary

The sections above present a detailed discussion of views expressed in workshops. It is a first-hand account and insight into what survivors want from redress. As noted earlier, a survivor perspective is frequently missing from the literature and policy debate on redress. It was clear from the workshops that survivors were of the view that redress is much more than financial compensation.

Participants asserted that redress eligibility should be for all those who attended a residential institution and should not be confined to those who attended the HIA Inquiry. The general consensus from workshops was that, any approach to redress must offer a holistic and comprehensive response recognising and addressing all the harms committed in and resulting from residential institutional abuses. It was clear that compensation was seen as only one part of a 'package of measures' and redress should include short and long-term counselling and wellbeing services; an official apology; access to records and family tracing; repatriation and reunion; and some form of memory project.

With regard to compensation, the consensus from workshops was that, to ensure the full range of harms are redressed, there should be two streams of compensation available to survivors: the first, a common experience basic level payment, should be awarded to any person who attended a residential institution irrespective of whether they suffered separate harms generated by acts of sexual, physical or severe emotional abuse; and the second, an individual compensation assessment scheme should be awarded to those who suffered sexual, physical, psychological and other serious abuses while living in residential facilities. It was very clear that workshop participants favoured an alternative to civil litigation.

There was considerable discussion about the human cost of civil litigation and the burden it was placing on survivors. The stories and experiences of disappointment, delay and the impact this was having on families was articulated throughout the day. It was clear that the pursuit of the right to redress was exacerbating further harm and re-traumatising and re-victimising survivors.

The Panel's recommendations are set out in the following section.

# Recommendations

## Introduction

The recommendations we are providing in this section of our report are legally supportable by civil, constitutional and international law and are consistent with public policy. We believe they address the need for a fair, just and comprehensive approach towards redress for survivors. The recommendations offer an expedient and mutually beneficial outcome to survivors, the Northern Ireland Executive and churches; they will also assist healing and closure. We anticipate that if the recommendations are implemented, there will be a much higher degree of acceptance and satisfaction for survivors which will provide greater certainty, less risk and a more defensible outcome than civil proceedings in the courts. The recommendations propose a specifically tailored approach that is streamlined and cost-effective and will reduce the potential to re-traumatise survivors.

## Guiding Principles

We recommend that the following guiding principles underpin discussion, implementation and procedures of a redress process.<sup>36</sup> The principles will ensure that redress proceeds on the basis of mutual trust, respect, and honesty. It is crucial to the integrity and acceptance of a redress process that these principles are agreed-upon and honoured by participating stakeholders. The redress scheme should:

1. Be informed by a human rights-based approach.
2. Be a participatory approach that fully involves survivors and their representatives in the shaping, design and implementation of the process.
3. Be inclusive, fair, accessible and transparent.
4. Offer a holistic and comprehensive response recognising and addressing all the harms committed in and resulting from residential institutional abuses.
5. Respect human dignity and gender equality.
6. Do no harm to survivors; avoid re-traumatisation of survivors and their families.
7. Contribute towards healing and resolution.

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<sup>36</sup> Some of the Guiding Principles the Panel has adopted were influenced by the Canadian redress model. See Assembly of First Nations Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools, [http://epub.sub.uni-hamburg.de/epub/volltexte/2009/2889/pdf/Indian\\_Residential\\_Schools\\_Report.pdf](http://epub.sub.uni-hamburg.de/epub/volltexte/2009/2889/pdf/Indian_Residential_Schools_Report.pdf).

# Recommendations

1. The Northern Ireland Executive should develop an out-of-court mechanism to provide redress to survivors of historical institutional abuse as defined in the terms of reference of the HIA Inquiry, the details to be developed in consultation and cooperation with a representative group of survivors of historical institutional abuse and their advisors.<sup>37</sup>
2. To achieve fairness and equality in the treatment of survivors in a timely way and to be consistent with well-understood legal principles, we recommend that the discussions regarding redress start from the state acknowledging responsibility for harms that occurred as a result of historical institutional abuse and accepting fault and liability for the physical, sexual and psychological abuses of children in institutional residential facilities, as well as accepting its obligation to ensure that the redress mechanism is funded in its entirety.
3. The institutions responsible for children in their care in which such abuse occurred should similarly acknowledge their responsibility and liability for the harms inflicted and should agree to contribute to funding the redress scheme in a separate agreement with the state.
4. To ensure that the full range of harms are redressed in this scheme, we recommend that a basic level of payment be awarded to any person who attended a residential institution, without the requirement of going through an individual assessment process to determine specific separate harms generated by acts of sexual, physical or severe emotional abuse.
5. In the interests of demonstrating goodwill and compassion for survivors' needs, such a payment could be awarded on an interim basis following an expedited procedure, especially for the elderly and the sick.
6. To ensure that all survivors of historical institutional abuse are fairly and justly compensated for the harms caused by attendance at residential facilities, we recommend that in addition to the compensation for injuries covered by the basic level of payment awarded, affected survivors have the choice to claim compensation for acts of additional physical, sexual and severe emotional abuse and personal injuries flowing from them through an Individual Assessment process.
7. The Individual Assessment Scheme should take account of the nature of the abuse perpetrated together with the effect of that abuse on the individual.
8. We recommend that medical treatment and long term care for past injuries is appropriately funded, including psychiatric care. This would mean providing additional resources to ensure adequate provision of medical treatment and services for past injuries and future care.

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<sup>37</sup> As much of the abuse occurred during periods of direct rule there is a particularly strong moral argument for the NI Executive to seek additional funding from the British Government to ensure that any scheme is adequately funded.

9. To achieve greater fairness and accountability in the redress process for the harms suffered, we recommend that the Executive accept liability for the physical, sexual or severe emotional abuse by a third party permitted on the premises of the institution or off the premises in circumstances where the child was or should have been under the care of the institution. This would include accepting liability for peer-on-peer sexual or physical assaults, on or off the institutions premises, whether or not there was actual knowledge of the assaults by the institution authorities.
10. We recommend that mediated settlement should be permitted between an individual and the investigative/awarding mechanism. In the absence of such an agreement, an inquisitorial process should be put in place. This would help limit the potential to re-traumatise survivors.
11. We recommend that the awards should not be taxable or deductible from any other source of funding or support the survivors may be receiving, including state benefits.
12. We recommend that the Executive should be proactive in ensuring that all survivors of historical institutional abuse have access to processes set up to deliver redress to them.
13. In the interests of consistency, fairness and equity, we recommend that the Executive should clarify and facilitate access to any compensation processes set up for survivors by heirs of deceased survivors.
14. In recognition of the ongoing harms of historical institutional abuses the Executive should commit to recognising and providing redress for the ongoing needs of survivors. In addition, secondary victims (parents, siblings, spouses and children of survivors) should be ensured access to benefits and programmes for harms caused as a result of historical institutional abuse.
15. In the interests of certainty and efficiency, and in light of the ageing population of survivors, we recommend that a date be set for the completion of the compensation process.
16. We recommend that an appeals process, and extension of time in certain circumstances or a residual mechanism for late claims should be put in place.
17. The existence of the scheme should be without prejudice to any survivor wanting to proceed in the civil courts.
18. We recommend that in order for survivors to have as complete a picture of their lives as possible, arrangements should be made to ensure supported access to un-redacted records and files that were made available, from whatever source, to the HIA Inquiry.
19. We recommend that an unequivocal public apology should be made by the state, churches and institutions, followed by a commitment to action on redress.
20. We recommend that in advance of the publication of the HIA Inquiry report representatives of survivors should have sight of or be briefed on the content of the HIA report (in line with confidentiality clauses).

# Appendix 1:

## Panel of Experts on Redress

### Terms of Reference

In collaboration and with the full participation of survivor groups, the Panel of Experts will:

1. Discuss and agree on appropriate ways to consult, explore and determine what survivors want from redress (compensation and broader redress options).
2. Write a report detailing what survivors want from redress; this report will inform the work of the Panel and Model Redress Scheme.
3. Design a Model Redress Scheme that will meet the needs of survivors.
4. Write a report that will set out in detail the Model Redress Scheme.
5. Convene roundtable(s)<sup>38</sup> with key stakeholders and interested parties to present and discuss the Redress Model Scheme.
6. Develop a strategy to take forward the Model Redress Scheme to enable survivors to 'speak with one voice'.
7. Inform and consult with representatives of survivors throughout the life of the project; be transparent and accountable.

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<sup>38</sup> And/or other methods/ways to be determined.

## **Appendix 2:**

### **Biographies: Panel of Experts**

#### **Marty Adams**

Marty Adams is a former resident of Rathgael Training School, now a social worker for children in care and disability services. He has also worked for the probation board of Northern Ireland as a counsellor in the rehabilitation of offenders. In addition, Marty has worked in community development and reconciliation. He represents victims of Protestant run institutions with SAVIA on a cross-community basis.

#### **Denis Bradley**

Denis Bradley is a former vice-chairman of the Northern Ireland Policing Board. He is a freelance journalist and a former priest. In mid-2007 he was appointed co-chairman, along with Sir Robin Eames, of the Consultative Group on the Past in Northern Ireland. In January 2009 the Consultative Group on the Past report was published. It generated controversy over its recognition payment to the nearest relative of a victim. He was formerly a member of the NI Drugs Committee and the BBC Broadcasting Council; he also helped set up the Bogside Community Association. He has worked as a counsellor, establishing two shelters and treatment centres for alcohol and drug addiction in Derry.

#### **Denise Burke**

Denise Burke is a former resident of Rathgeal/Whiteabbey Training School. She has been involved in the campaign for recognition and reparation for survivors/victims of institutional abuse and works closely with SAVIA and former residents of Rathgeal. She is centrally involved in a cross-community grouping which is united in its goal for justice.

#### **Michael Connolly**

Michael Connolly LLB (Hons) is a survivor of clerical abuse. Founder, spokesperson and chief negotiator, for Clerical Abuse Northern Ireland. Legal researcher and mediator.

#### **Patrick Corrigan**

Patrick Corrigan is Northern Ireland Programme Director and Head of Nations & Regions at Amnesty International UK. Amnesty International Northern Ireland has taken the lead in advocacy and campaigning for survivors of historical institutional abuse. Amnesty is one of the main human rights organisations in Northern Ireland which provides educational work and a focus on human rights nationally and internationally.

#### **Cyril Glass**

Survivor and former resident of Rathgael.

#### **John Heaney**

John Heaney is a former resident of Termonbacca. He became involved in the campaign in 2009 in order to help fight for an inquiry. He has been involved in youth work for almost 25 years; he was also a firefighter for 25 years. He is currently secretary of Survivors North West.

#### **Susan Kemp**

Susan Kemp is an independent legal adviser and a Commissioner with the Scottish Human Rights Commission. She specialises in international criminal and human rights law and has worked in Latin America, Africa and Europe representing victims, investigating human rights abuses and providing

technical assistance to state prosecutors. She has served with the Department of Peacekeeping in New York, the International Criminal Court in The Hague and was Legal Director of CALDH in Guatemala.

#### **Professor Gerry Leavey, Ulster University**

Professor Gerard Leavey is Director of the Bamford Centre for Mental Health & Wellbeing, Ulster University and Clinical Lead for the Northern Ireland Clinical Research Network. Prior to this, he was Director of Research at Barnet, Enfield and Haringey Mental Health NHS Trust in North London. He has undertaken a considerable body of research in psychiatry and health services research and played various key roles in the psychiatric research community in London and the UK. Much of his work relates to health inequalities, help-seeking, and the improvement of mental health services for disadvantaged groups. He has written extensively on the mental health of refugee and migrant communities.

#### **Professor Patricia Lundy, Ulster University**

Patricia Lundy is Professor of Sociology at Ulster University and a core member of the Institute for Research in the Social Sciences. She has researched and written widely on transitional justice, mechanisms for dealing with the legacy of conflict, contested memories, official apologies and the legacy of human rights abuse in Northern Ireland. Patricia was awarded a British Academy Senior Fellowship in 2010-2011 and Leverhulme Trust Major Research Fellowship (2016-2018). She is an Executive Member of the Committee on the Administration of Justice (CAJ).

#### **Professor Kathleen Mahoney**

Professor Mahoney was appointed Visiting Professor at Ulster University in July 2015. Kathleen Mahoney is Professor of Law at the University of Calgary, Canada. She was the Chief Negotiator for the Assembly of First Nations, achieving the historic Indian Residential School Settlement Agreement. She was counsel for Bosnia Herzegovina in their genocide action against Serbia in the International Court of Justice and Chair of the Board of Directors of Canada's International Centre for Human Rights and Democratic Development for 6 years. Additional information: Professor Mahoney is a practicing QC; Fellow of the Royal Society of Canada; Trudeau Fellow; Fulbright Fellow; Sir Allen Sewell Fellow and Professor of Law.

#### **Oonagh McAleer**

Oonagh McAleer is a survivor and chairperson of Birth Mothers for Justice (BMFJ). She is spokesperson for the group and campaigned with others for an inquiry into mother and baby homes in Northern Ireland.

#### **Collette Breen**

Collette is a survivor and a member of Birth Mothers for Justice (BMFJ). She has campaigned with others for an inquiry into mother and baby homes in Northern Ireland.

#### **Ciaran McAteer**

Ciaran McAteer has been a Solicitor for almost 40 years and founded McAteer & Co in January 1983. Since then, Ciaran has specialised in representing victims of all types of abuse, including clerical and institutional. Ciaran made a presentation to OFMDFM Committee of NI Assembly when the HIA Inquiry legislation was being considered. He has represented victims of abuse from across the island of Ireland, GB and as far away as Australia in cases before the High Court, Court of Appeal and in criminal injury applications.

#### **Gerry McCann**

Gerry McCann is a survivor. He is chairperson of the Rosetta Trust which is a support and advocacy group for survivors of historical abuse.

### **Jon Mc Court**

Jon McCourt is a survivor of historical institutional abuse. He spent almost 10 years in St Joseph's Home Termonbacca in Derry. Along with others, he was involved in the negotiations that led to the establishment of the HIA Inquiry, insisting that the legislation establishing the inquiry be passed by the Northern Ireland Assembly rather than the Westminster Parliament. He is Chairman of Survivors (North West) based in Derry, a support, advocacy and empowerment organisation for survivors of historical institutional abuse. For 35 years, he has been involved in community development, peace-making and reconciliation work, locally, nationally and internationally.

### **Margaret McGuckin**

Margaret McGuckin is a former resident of Nazareth House. She is the founder and chair of Survivors and Victims of Institutional Abuse (SAVIA) which acts as a united voice for the needs and demands of all survivors of institutional abuse. She has campaigned tirelessly for many years for justice for the many children who suffered abuse. SAVIA also offers mutual support, information and liaises on behalf of survivors with political representatives, statutory agencies and the media. Margaret has consistently highlighted the fact that systemic abuse was not specific to Catholic run institutions but was endemic in both church and state homes and also affected vulnerable adults in care. She works on a cross-community basis with other survivors groups in Northern Ireland. Margaret has been the driving force in SAVIA; along with others, she organised a petition to lobby the Northern Ireland Executive to hold an inquiry into historical institutional abuse. Margaret and SAVIA's achievements are numerous and include achieving cross-party support in the NI Assembly for an inquiry and the resultant Inquiry legislation. She was joint winner of the Belfast Telegraph's Inspirational Woman of the Year 2014 award and was recognised and awarded the SMK Campaigner of the year UK for Social Justice, presented in London. She has worked tirelessly for many years for fair and just redress at great personal cost.

### **Claire McKeegan, Associate Solicitor**

KRW LAW-LLP is one of Ireland's leading law practices. The offices in Belfast City Centre have been instructed in some of the most significant and high profile cases in this jurisdiction. KRW specialise in the areas of advocacy, criminal law, human rights, judicial review, prison law and civil litigation. KRW has been cited by the world renowned guide to the legal profession, Chambers and Partners, which lists the top lawyers in 175 countries. The firm is ranked in their top band, Band 1, for their expertise in public law and criminal practice. Claire represents more than 70 survivors of historical institutional abuse in civil cases and has litigated many cases to settlement against the various institutions. KRW has successfully represented survivors and victims in public law challenges.

### **Pearse Mehigan – Solicitor, Dublin**

Pearse Mehigan qualified in 1981 and has been in practice for 30 years, having established the practice in Dun Laoghaire in 1982. Primarily involved in litigation, the principal has acted for a number of the country's leading insurers over the years, and more recently, has been very much involved in representing victims of sexual abuse, both clerical and non-clerical. In addition, the firm has successfully completed over two hundred and fifty applications to the Residential Institutions Redress Board on behalf of clients from all over the country. Pearse Mehigan is an accredited mediator, having successfully completed the CEDR programme to which he is now accredited and which he has applied successfully to bring resolution to a number of difficult and challenging cases involving.

### **Malachy McGowan**

Malachy McGowan is a practising barrister specialising in fundamental rights who acts in some of the most high profile legacy cases and historic institutional abuse cases in this jurisdiction. He was called to



the Bar in 2007, and has recently been called to the Bar in both the Republic of Ireland and in England and Wales.

**Professor Bill Rolston, Ulster University**

Bill Rolston is an emeritus professor with and former director of the Transitional Justice Institute at Ulster University. He has researched and written widely on Northern Ireland society and politics over many years, concentrating in recent years on legacy issues arising out of the conflict. He has published articles on truth, victims, memory and official apologies, as well as having charted how the political wall murals have altered as the peace process has emerged and developed.

**Kate Walmsley**

Kate Walmsley is a former resident of Nazareth House, Bishop Street, Derry. She became involved with SAVIA after meeting its Founder Margaret McGuckin who brought a petition to Stormont demanding an inquiry into Institutional Abuse. She joined the campaign along with Patrick Corrigan of Amnesty International who highlighted the urgent need for all MLAs to back an inquiry into Child Abuse in the North of Ireland. Kate has worked closely alongside Margaret in cross-community work, encouraging many survivors of child abuse to come forward to speak to the ongoing HIA Inquiry.

## Notes

## Notes



